

Int. No. 14856, Paper No. 37

IN THE  
United States Patent Office

HENRY HOESCHEN,

vs.

AXELSON, TEWKSBURY & OTT,

MARCUS O. ANTHONY,

CONYINGTON & CONYINGTON,

ELLSWORTH E. FLORA,

and

JOHN F. BARBER.

Interference No. 14,856.

SUBJECT MATTER :

"Coin-Controlled Phonograph  
Service."

F. W. RITTER, Jr.,  
W. N. WILLIAMS,  
Attorneys for Henry Hoeschen.

BURKLEY PRINTING CO.





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(Issue.)

(2—061.)

[INTERFERENCE]

DEPARTMENT OF THE INTERIOR

UNITED STATES PATENT OFFICE,

*Washington, D. C., Nov. 14th, 1890.*

H. HOESCHEN,

Care F. W. Ritter, Jr.

No. 14,856.

Washington, D. C.

Please find below a copy of a communication from the Examiner concerning your application filed Nov. 3, 1890, Automatic Coin Controlled Phonograph Service, S. No. 370,128.

Very respectfully,

C. E. MITCHELL,

*Commissioner of Patents.*

Room No. ....

All communications should be addressed to

"THE COMMISSIONER OF PATENTS,

WASHINGTON, D. C."

Your case, above referred to, is adjudged to interfere with others, hereafter specified, and the question of priority will be determined in conformity with the Rules.

The statement demanded by Rule 110 must be sealed up and filed on or before the 6th day of January, 1891, with the subject of the invention, and name of party filing it, indorsed on the envelope. The subject matter involved in the interference is

The combination with a phonograph and the mechanism which actuates it, of an interposed shaft driven from said mechanism, a shifting clutch actuated from the carriage, and a carriage-lifting device controlled by said clutch.

The foregoing issue covers substantially claims 1, 2 and 4 of the application of H. R. and T. Conyington, of Galveston, Texas, for Coin Operated Phonograph, whose



attorney is F. L. Browne, of Washington, D. C.; claims 3, 4 and 6 of the application of J. F. Barber, of Denver, Colo., for Coin Controlled Mechanism, whose attorney is A. J. O'Brien, of Denver, Colo., with W. E. Aughough, of Washington, D. C., as associate; claims 8, 9 and 10 of the application of E. E. Flora, of Chicago, Ills, for Coin Operated Phonograph, whose attorneys are Dyrenforth & Dyrenforth, of Washington, D. C., and claims 4, 6, 9 and 10 of the application of H. Hoeschen, of Omaha, Neb., for Coin Controlled Phonograph Service, whose attorney is F. W. Ritter, Jr., of Washington, D. C.

Case Q.

No. 14856.

# PRELIMINARY STATEMENT.

H. R. & T. Conyington,

vs.

J. F. Barber,

vs.

E. E. Flora,

vs.

H. Hoeschen.

Interference in the United  
States Patent Office.

Preliminary Statement of  
Henry Hoeschen.

Henry Hoeschen, of Omaha, in the County of Douglas, and State of Nebraska, being first duly sworn, doth depose and say, that he is a party to the interference declared by the Commissioner of Patents November 14th, 1890, between Henry Hoeschen's application for letters patent, filed Nov. 3rd, 1890, Serial Number 370128, for Coin Controlled Phonograph Service, and the application of H. R. and T. Conyington, of Galveston, Texas, for Coin Operated Phonograph, and the application of J. F. Barber, of Denver, Colorado, for Coin Controlled Mechanism, and the application of E. E. Flora, of Chicago, Illinois, for Coin Operated Phonograph, that he conceived the invention set forth in the declaration of interference on or about

the 1st day of July, 1890, that no drawings of the invention in issue have been made, that on or about the 10th day of July, 1890, he first explained the invention to others, that no model showing such invention has been made, that he embodied his invention in a full sized machine, which was completed about the 30th day of September, 1890, and that on the 30th day of September, 1890, the said machine was successfully operated in the office of the Nebraska Phonograph Company in the New York Life Insurance Company's Building in the City of Omaha, County of Douglas, and State of Nebraska, and that he has since continued to use the same, and that he has manufactured others for use and sale.

HENRY HOESCHEN.

Subscribed in my presence and sworn to before me this 20th day of December, 1890.

W. N. WILLIAMS,

[Notarial Seal.]

Notary Public.

# IN RE

Henry Hoeschen,

vs.

Axelsson, Tewksbury & Ott,

Marcus O. Anthony,

Conyington & Conyington,

Ellsworth E. Flora, and

John F. Barber.

Interference No. 14, 856.

Before the Commissioner of Patents, in the matter of the interference between the applications of Axelsson, Tewksbury & Ott, Marcus O. Anthony, Conyington & Conyington, Henry Hoeschen, Ellsworth E.



Flora and John F. Barber, for automatic coin-controlled phonograph service.

STATE OF NEBRASKA, }  
DOUGLAS COUNTY. } ss.

John T. Williams, being first duly sworn, on oath says, that he is a member of the firm of Williams & Williams, Attorneys-at-Law; that on the 17th day of May, 1892, he served notice upon George J. Murray, Cincinnati, Ohio attorney for Marcus O. Anthony, a party to this interference, by delivering to the Adams Express Company said notice directed to said Murray; a copy of the receipt for said package is hereto attached marked Exhibit A, and a carbon copy of said notice is hereto attached marked Exhibit C.

Affiant further says that on the said 17th day of May, 1892, he served a notice upon A. J. O'Brien, Denver, Colorado, attorney for John F. Barber, one of the parties to this interference, by sending by the Wells Fargo Express Company's Express, notice to take said testimony, directed to said A. J. O'Brien; the receipt of said Express Company for said package is hereto attached marked Exhibit B.

Affiant further says that a copy of the said notice to take said testimony is hereto attached marked Exhibit D.

Further affiant sayeth not.

JOHN T. WILLIAMS.

Subscribed in my presence and sworn to before me this 5th, day of July, A. D., 1892.

{ SEAL }

R. A. SMITH,  
Notary Public.

# UNITED STATES PATENT OFFICE.

## Notice of Taking Testimony.

Interference No. 14, 856.

In the matter of the interference between the applications of Axelson, Tewksbury & Ott, filed July 25, 1891; M. O. Anthony, filed November 20, 1890; Conyington & Conyington, filed November 3, 1890; Henry Hoeschen, filed November 3, 1890; Ellsworth E. Flora, filed July 31, 1890; and John F. Barber, filed July 26, 1890; now pending before the Commissioner of Patents.

To Axelson, Tewksbury & Ott,  
or their Attorneys,  
R. S. & A. P. Lacey,  
Washington, D. C.

To Marcus O. Anthony,  
or his Attorney,  
Geo. J. Murray,  
Cincinnati, Ohio.

To Conyington & Conyington,  
or their Attorney,  
F. L. Browne,  
Washington, D. C.

To Ellsworth E. Flora,  
or his Attorneys,  
Dyrenforth & Dyrenforth,  
Washington, D. C.

To John F. Barber,  
or his Attorney,  
A. J. O'Brien,  
Denver, Colorado.

SIRS:

You are hereby notified that on Tuesday, May 24, 1892, at the office of W. N. Williams, room 1007 and 1008, New York Life Building, Omaha, Nebraska, at nine (9)



o'clock in the forenoon, we shall proceed to take the testimony of Erastus Benson, Henry Hoeschen, Caspar V. Schneider, all of Omaha, Nebraska, witnesses on behalf of Henry Hoeschen, one of the parties to the above entitled interference.

The examination will continue from day to day until completed. You are invited to attend and cross-examine.

Very respectfully,

F. R. RITTER, JR.,

Attorney for Henry Hoeschen.

Washington, D. C.,

May 18th, 1892.

Service accepted this 18th day of May, 1892.

R. S. & A. P. LACEY,

Atty's for Axelson, Tewksbury & Co.

Service accepted this .....day of May, 1892,

.....  
Atty's for Marcus O. Anthony.

Service accepted this 18th day of May, 1892.

F. L. BROWNE,

Att'y for Conyington & Conyington.

Service accepted this 18th day of May, 1892.

DYRENFORTH & DYRENFORTH.

Atty's for Ellsworth E. Flora.

Service accepted this .....day of May, 1892.

.....  
Atty for John F. Barber.

“EXHIBIT A.”

Value, \$ ..... WELLS, FARGO & CO'S EXPRESS.

READ THE CONDITIONS OF THIS RECEIPT.

OMAHA, NEB., May 17th, 1892.

Received from Williams & Williams, a letter, valued at (asked and not given.) Addressed, A. J. O'Brien, Denver, Colorado.

Which we undertake to forward to the point nearest

destination reached by this Company, on these conditions, namely:

That Wells, Fargo & Company shall not be held liable for loss or damage, except as forwarders only, within their own line of communication; nor for any loss or damage by fire or casualties of navigation, and inland transportation (unless specially insured and so noted herein); nor for such as can be referred to the acts of God, the restraints of Government, riot, insurrection, piracy or the hazards of war, nor for default, neglect, or mishap on the part of any connecting or intermediate line, (individual, corporation, or association) to whom the said property may be transferred for further transmission; nor for an amount exceeding Fifty Dollars, on any shipment unless its true value is herein stated; nor for any amount on goods not properly packed and addressed; on Fragile Fabrics, unless plainly marked as such; nor on articles consisting of or contained in glass. That, in respect to C. O. D. goods, if delivery cannot be made in 60 days after consignment, this Company may, at its option, return the same to consignor, who shall pay transportation thereon both ways, the liability of this Company on said goods, pending such action and while in its custody, to be that of warehousemen only. And it is further stipulated that Wells, Fargo & Company shall not be liable, under this contract, for any claim whatsoever, unless presented, in writing, within sixty days from the date thereof, and that these provisions shall extend to and inure to the benefit of each individual, corporation, or association to whom the above specified property may be transferred and entrusted in order to reach its destination.

The party accepting this receipt thereby agrees to its conditions.

Not Negotiable.

Charges, 25 cents.

For the Company,

THAYER.



## "EXHIBIT B."

## ADAMS EXPRESS COMPANY,

Great Eastern, Western and Southern Express Forwarders.

No. 130. (NOT NEGOTIABLE.) OMAHA, NEB., May 17, 1892.

Received of Williams & Williams, a letter, value, (not given). For which this Company charges.....  
 Marked Geo. J. Murray, Cincinnati.

Which it is mutually agreed is to be forwarded to our Agency, nearest or most convenient to destination only, and there delivered to other parties to complete the transportation.

It is part of the consideration of this contract, and it is agreed, that the said Express Company are forwarders only, and are not to be held liable or responsible for any loss or damage to said property while being conveyed by the carriers to whom the same may be by said Express Company entrusted, or arising from the dangers of railroads, ocean, or river navigation, steam, fire in stores, depots, or in transit, leakage, breakage, or from any cause whatever, unless, in every case, the same be proved to have occurred from the fraud or gross negligence of said Express Company, or their servants; nor, in any event, shall the holder hereof demand beyond the sum of Fifty Dollars, at which the article forwarded is hereby valued, unless otherwise herein expressed, or unless specially insured by them, and so specified in this receipt, which insurance shall constitute the limit of the liability of the Adams Express Company.

And if the same is entrusted or delivered to any other Express Company, or agent, (which said Adams Express Company are hereby authorized to do), such Company or person so selected shall be regarded exclusively as the agent of the shipper or owner, and as such, alone liable, and the Adams Express Company shall not be, in any event responsible for the negligence or non-performance of any such Company or person; and the shipper and owner hereby severally agree that all the stipulations and conditions in this receipt contained, shall extend to and inure to the benefit of each and every Company or person to whom the

Adams Express Company may entrust or deliver the above described property for transportation, and shall define and limit the liability therefor of such other Company or person.

In no event shall the Adams Express Company be liable for any loss or damage unless the claim therefor shall be presented to them, in writing, at this office, within thirty days after this date, in a statement to which this receipt shall be annexed.

All articles of glass, or contained in glass, or any of a fragile nature, will be taken at shipper's risk only, and the shipper agrees that the Company shall not be held responsible for any injury, by breakage or otherwise, nor for damage to goods not properly packed and secured for transportation.

It is further agreed that said Company shall not, in any event, be liable for any loss, damage or detention, caused by the acts of God, civil or military authority, or by rebellion, piracy, insurrection or riot, or the dangers incident to a time of war, or by any riotous or armed assemblage.

If any sum of money, besides the charge for transportation, is to be collected from the consignee on delivery of the above described property, and the same is not paid within thirty days from the date hereof, the shipper agrees that this Company may return said property to him at the expiration of that time, subject to the conditions of this receipt, and that he will pay the charges for transportation both ways, and that the liability of this Company for such property while in its possession for the purpose of making such collection, shall be that of warehousemen only.

Freight 25 cents.

For the Company,

(Signed) STUART.

## "EXHIBIT C."

INTERFERENCE 14856.

## NOTICE OF TAKING TESTIMONY.

OMAHA, NEB., May 17, 1892.

In the matter of the interference between the application of Henry Hoeschen for an Automatic Coin Con-



trolled Phonograph Service, serial number 370, 128, and the application of Marcus O. Anthony, now pending in the United States Patent Office.

To Geo. J. Murray, Cincinnati, Ohio, Attorney for Marcus O. Anthony :

You are hereby notified that on ..... May 24th, 1892, at the office of Williams & Williams, room 1008, New York Life Building, Omaha, Nebraska, at 9 o'clock a. m., we shall proceed to take the testimony of Henry Hoeschen, Caspar V. Schneider and Erastus A. Benson, all of Omaha, Douglas County, Nebraska, as witnesses on behalf of said Hoeschen.

By his Attorneys: HENRY HOESCHEN,  
{ F. W. RITTER,  
W. N. WILLIAMS.

"EXHIBIT D."

INTERFERENCE 14856.

NOTICE OF TAKING TESTIMONY.

OMAHA, NEB., May 17, 1892.

In the matter of the interference between the application of Henry Hoeschen for an Automatic Coin-Controlled Phonograph Service, serial number 370, 128, and the application of John F. Barber, now pending in the United States Patent Office.

To A. J. O'Brien, Denver, Colorado, Attorney for John F. Barber :

You are hereby notified that on ..... May 24th 1892, at the offices of Williams & Williams, room 1008, New York Life Building, Omaha, Nebraska, at 9 o'clock a. m., we shall proceed to take the testimony of Henry Hoeschen, Caspar V. Schneider and Erastus A. Benson, all of Omaha, Douglas County, Nebraska, as witnesses on behalf of said Hoeschen.

By his Attorneys: HENRY HOESCHEN,  
{ F. W. RITTER,  
W. N. WILLIAMS.

DEPOSITIONS

On behalf of Henry Hoeschen, examined on behalf of Henry Hoeschen pursuant to the annexed notice, at Rooms 1007 and 1008 New York Life Building, in the City of Omaha, Nebraska, beginning Tuesday morning, May 24th, 1892. Present, W. N. Williams, Esq., on behalf of Henry Hoeschen. No appearance for Axelsson, Tewksbury & Ott, Marcus O. Anthony, Conyington & Conyington, Ellsworth E. Flora and John F. Barber.

The examination being deferred one hour to await the possible appearance of said parties, or their attorneys, and none of them appearing, the examination was commenced at 2.15 p. m., of the above day.

HENRY HOESCHEN,

Of lawful age, being by me first duly examined, cautioned and solemnly sworn, as hereinafter certified, deposeth and sayeth as follows, viz.:

*Direct Examination*—By Mr. W. N. Williams.

- 1 Q. State your name, residence and occupation?  
A. My name is Henry Hoeschen; I live in Omaha, Nebraska, and my occupation is an Electrician.
- 2 Q. Mr. Hoeschen, you are the inventor, or claim to be the inventor, of certain improvements in automatic, coin-controlled phonograph service in interference in the Patent Office with the claims of Axelsson, Tewksbury & Ott, of Topeka, Kansas, Marcus O. Anthony, of Cincinnati, Ohio, Conyington & Conyington, of Galveston, Texas, Ellsworth E. Flora, of Chicago, Illinois, and John F. Barber, of Denver, Colorado. The issue in that interference is as follows: The combination with a phonograph and the mechanism which actuates it, of an interposed shaft driven from said mechanism, a shifting clutch actuated from the carriage, and a carriage lift device controlled by said clutch.

A. Yes, sir.



3 Q. Will you now give, briefly, a history of your invention that I have just described in that issue, and the date when you first conceived the invention described in that issue?

A. When the machine was in my mind I first figured on it; that was right about the 1st of July.

4 Q. Of what year?

A. It was 1890. And then I guess about by the 10th of the same month I made the machine—finished the machine.

5 Q. State as near as you can the exact date when you first conceived, or when you first thought of, the invention described in this issue which I have just read to you. State the date?

A. Well, it would be as I said, somewhere about the 1st of July, 1890. I think it was about two years ago.

6 Q. Did you at any time make any drawings of that invention?

A. No, sir; no drawings.

7 Q. Did you disclose it to others? That is, did you tell anybody else about it?

A. Yes, I did.

8 Q. Who did you tell about it?

A. Well, E. A. Benson and Schneider—Caspar Schneider.

9 Q. About when did you speak to Mr. Benson about this?

A. Well, right I think some time in the first part of July.

10 Q. Was it before or after you completed your machine, which you spoke of having finished?

A. Really, I cannot tell that.

11 Q. Was it about that time?

A. Yes, sir.

12 Q. When did you first speak to Mr. Caspar Schneider about the invention?

A. Well, it was just—I can hardly remember that, whether it was right in the beginning or not; maybe a couple of days after I thought of it, and I made the machine after that.

13 Q. So then it was probably two days, or thereabouts, after the 1st when you spoke to Mr. Schneider about it?

A. Yes, sir; I think something like that.

14 Q. When did you make the first machine and have it completed?

A. The first machine was finished I think something like by the 10th.

15 Q. Of July, 1890?

A. Yes, sir.

16 Q. Who saw that machine?

A. Well, Caspar Schneider, and then Mr. Benson; he was with the Phonograph Company; I think there was Mr. H. Benson.

17 Q. Do you know what was done with that machine?

A. For awhile I think Mr. Benson kept it over there in the Phonograph room, and then I got it back. A couple of months after that, I think, it was put in practical use.

18 Q. And after the 10th of July, 1890, for some time it was in the hands of Mr. Benson, or the Phonograph Company?

A. Yes, sir; I believe so.

19 Q. Have you ever made these machines operative and put them in use?

A. Well, we tried them, I believe, about the 10th of July. That is, we didn't put it in practical use. We tried it before the 10th, but I don't know for sure how long it took to make that machine.

20 Q. You have put it in practical use then?

A. Not to make money with it, but we put it on the phonograph; yes, sir.



21 Q. When did you do that, as near as you can remember?

A. For trying?

22 Q. Yes, sir.

A. When it was completed, about the 10th of July, 1890?

23 Q. When did you put it on the phonograph for practical use?

A. To make money with it, I think that was done a couple of months after when I completed the machines, or about the last part of September, 1890.

24 Q. Did you, at any time, make a model other than that first full size machine which was done about the 10th of July, 1890?

A. Not a full model; the first machine was right and complete. That machine, I think there is nothing changed on it—hardly any change made on it.

25 Q. Was that machine finished on the 10th of July, 1890, the same as the invention you conceived on or about the 1st of July, 1890?

A. Yes.

26 Q. How many of those machines have you made altogether, as near as you can tell?

A. I guess about a couple of dozen; I cannot remember just exactly, but I think somewhere in the neighborhood of a couple of dozen.

27 Q. Are they in practical use, and have been in practical use?

A. Yes, sir; they have been in practical use, and I believe most of them are in use now, but I don't know.

CASPER V. SCHNEIDER,

Of lawful age, being by me first duly examined, cautioned and solemnly sworn, as hereinafter certified, deposeth and sayeth as follows, viz.:

*Direct Examination*—By Mr. W. N. Williams.

1 Q. State your name, residence and occupation?

A. My name is Casper V. Schneider; I live at 1618 Douglas street, Omaha, Nebraska; I am an electrician's helper; I am learning.

2 Q. Are you acquainted with Henry Hoeschen, party to this interference?

A. Yes, sir.

3 Q. Have you ever seen an alleged invention of Henry Hoeschen's, described in this interference, as follows:

The combination with a phonograph, and the mechanism which actuates it, of an interposed shaft driven from said mechanism, a shifting clutch actuated from the carriage, and a carriage lift device controlled by said clutch?

A. Yes, sir.

4 Q. Did Henry Hoeschen ever speak to you in regard to that?

A. Yes.

5 Q. When did he first mention such an invention to you?

A. Well, it was about probably July the 10th; maybe a little sooner he may have done it, or later.

6 Q. What year?

A. 1890.

7 Q. I understand you to say that you are learning to be an electrician; you are a helper?

A. Yes.

8 Q. Whom do you help?

A. Mr. Hoeschen.



- 9 Q. Were you working with Mr. Hoeschen at that time, July, 1890?
- A. Yes.
- 10 Q. Now, at that time did Mr. Hoeschen—at about that time—make one of these machines?
- A. Yes, sir.
- 11 Q. Did you help him to make it?
- A. Well, some of the small parts; Mr. Hoeschen made the main thing himself.
- 12 Q. You saw the machine, did you?
- A. Yes.
- 13 Q. At what time did Mr. Hoeschen first speak to you about this machine?
- A. On or about July 1st, maybe a little sooner, but I am not quite sure about that; it has been so long I haven't thought of it.
- 14 Q. Do you know when the first full size machine was completed?
- A. That was shortly after he spoke to me about it.
- 15 Q. How many days, probably?
- A. It may have been a week or ten days from about July the 10th.
- 16 Q. Has Mr. Hoeschen made other machines, since that time, of the same kind?
- A. Since the first one?
- 17 Q. Since the first one?
- A. Yes.
- 18 Q. Were those machines that have been made since, the same as that which was completed on or about the 10th of July, 1890?
- A. Yes.
- 19 Q. Do you know, Mr. Schneider, what became of this machine that was completed by Mr. Hoeschen on or about the 10th of July, 1890?
- A. As far as I remember, it was used at the Millard

- 20 Q. What became of it after that, if you know?
- A. It was brought into the shop, cleaned up and repaired and sent out of the city.
- 21 Q. Do you know to what point it was sent?
- A. I hardly know, but I think it was to Iowa, somewhere.
- 22 Q. Somewhere in the State of Iowa?
- A. Yes, sir; I don't know just to what city.
- 23 Q. You say there have been other machines made since this first one was completed on July 10th, 1890?
- A. Yes.
- 24 Q. Do you know how many, or about how many, have been made since that time?
- A. I hardly know just what number; I haven't kept track of that.
- 25 Q. About how many do you think?
- A. Well, as much as I remember, there were several dozen of them made, anyway.
- 26 Q. And these machines, I understand you to say, were all the same as the machine made July 10th, 1890?
- A. Yes sir; they were all the same.
- 27 Q. And the same as Mr. Hoeschen described to you on July 1st, or a little before that date, in 1890?
- A. Yes.

E. A. BENSON,

Of lawful age, being by me first duly examined, cautioned and solemnly sworn, as hereinafter certified, deposeth and sayeth as follows, viz:

*Direct Examination*—By Mr. W. N. Williams.

- 1 Q. You may state your name and residence?
- A. E. A. Benson, Omaha, Nebraska.
- 2 Q. Are you acquainted with Henry Hoeschen, one of the parties to this interference?
- A. Yes sir.



3 Q. You may state if during the year 1890, you had any relations with the Nebraska Phonograph Company?

A. I had.

4 Q. What were those relations?

A. I was President.

5 Q. The issue in this interference is as follows :

The combination with a phonograph, and the mechanism which actuates it, of an interposed shaft driven from said mechanism, a shifting clutch actuated from the carriage, and a carriage lifting device controlled by said clutch.

You may state if you have seen any machines manufactured by Henry Hoeschen, containing the elements described in this issue?

A. I have.

6 Q. You may state when you first saw such a machine, as near as you can?

A. About the first of July, 1890.

7 Q. Did you at that time, or prior to that time, have any conversation with Henry Hoeschen, in regard to this invention?

A. I had.

8 Q. Did he then describe the invention to you?

A. He did.

9 Q. You may state if you know whether or not Mr. Hoeschen made other machines similar to the one shown to you on the 10th of July, 1890?

A. He did.

10 Q. Do you know how many he manufactured?

A. I should think that there must have been forty or fifty, at least.

11 Q. Were those machines placed in practical operation?

A. I think all of them were.

HENRY HOESCHEN.

STATE OF NEBRASKA, }  
DOUGLAS COUNTY. } ss.

I, R. A. Smith, a Notary Public within and for the County of Douglas, and State of Nebraska, do hereby certify that the foregoing depositions of Henry Hoeschen, Caspar V. Schneider and E. A. Benson, were taken on behalf of Henry Hoeschen, in pursuance of the notice hereto annexed, before me, at rooms 1007 and 1008 New York Life Building, in the City of Omaha, in said County, on the 24th day of May, 1892; that each of said witnesses was by me duly sworn before the commencement of his testimony; that the testimony of each of said witnesses was written out by myself; that the opposing parties, Axelson, Tewksbury & Ott, Marcus O. Anthony, Conyington & Conyington, Ellsworth E. Flora and John F. Barber, were absent during the taking of said testimony; that said testimony was taken at rooms 1007 and 1008 New York Life Building, in the City of Omaha, in the County of Douglas, and State of Nebraska, and was commenced at 2:15 o'clock p. m., on the 24th day of May, 1892, and was concluded on the 24th day of said month; that I am not connected by blood or marriage with either of said parties, nor interested directly or indirectly in the matter in controversy.

In testimony whereof I have hereunto set my hand and affixed my seal of office at Omaha, in said County, this 5th day of July, 1892.

{ SEAL }

R. A. SMITH,

*Notary Public.*